

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

JOHN HERNDON,

Plaintiff,

v.

EMERY SAPP & SONS, INC.,

Defendant.

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No. 2:25-CV-00007 RHH

OPINION, MEMORANDUM AND ORDER OF TRANSFER

This matter is before the Court upon review of the employment discrimination complaint filed by plaintiff John Herndon, and on plaintiff's motion to proceed in forma pauperis. ECF Nos. 1, 3. Based on the financial information submitted in support of the motion to proceed in forma pauperis, the motion will be provisionally granted. However, because venue is not proper in this Court, this case will be transferred to the United States District Court for the Western District of Missouri.

Plaintiff, who resides in Mexico, Missouri, within the confines of Audrain County, Missouri, brings this case against his former employer Emery Sapp & Sons, Inc., which is in Columbia, Missouri, or in the confines of Boone County, Missouri. Plaintiff alleges discrimination based on his race, color and age, as well as retaliation. Plaintiff brings these claims pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, *et seq.*, and the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621, *et seq.*

Claims arising under Title VII are strictly governed by the specific venue provisions in 42 U.S.C. § 2000e-5(f)(3). Section 2000e-5(f)(3) provides that Title VII claims may properly be brought in any judicial district in which: (1) "the unlawful employment practice is alleged to have

been committed,” (2) “the employment records relevant to such practice are maintained and administered,” or (3) “the aggrieved person would have worked but for the alleged unlawful employment practice.” 42 U.S.C. 2000e-5(f)(3). Under all three of these requirements, venue is proper only in the judicial district in the Western District of Missouri where the defendant corporation is located.

Under 28 U.S.C. § 1406(a), “[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” Here, the Court concludes that it is in the interest of justice to transfer this case to the United States District Court for the Western District of Missouri. In addition, considering all the circumstances, the Court believes it best if the transferee district addresses plaintiff’s motion for appointment of counsel. *See* ECF No. 2.

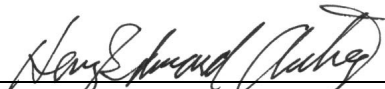
Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion to proceed in forma pauperis [ECF No. 3] is provisionally granted, subject to modification by the United States District Court for the Western District of Missouri.

IT IS HEREBY ORDERED that the Clerk of Court shall **TRANSFER** this case to the United States District Court for the Western District of Missouri. *See* 28 U.S.C. § 1406(a).

IT IS FINALLY ORDERED that the Court shall hold plaintiff's motion for appointment of counsel [ECF No. 2] in abeyance for ruling by the United States District Court for the Western District of Missouri.

Dated this 17th day of January, 2025.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE